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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,992	03/26/2004	Gregory James Newell	GJN-02	9016
7590	12/16/2005			
John R. Flanagan P.O. Box 2629 Eugene, OR 97402			EXAMINER BOEHLER, ANNE MARIE M	
			ART UNIT	PAPER NUMBER
			3611	
DATE MAILED: 12/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/810,992	Applicant(s) NEWELL, GREGORY JAMES	
	Examiner Anne Marie M. Boehler	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 9, 11-19, 25-32, 35 and 36 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 10, 20-24, 33 and 34 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2 sheets</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11, 12, 14, 16, are rejected under 35 U.S.C. 102(b) as being anticipated by Shieman (USPN 3,876,024).

Shieman shows a materials handling system with a chassis 23, an elongated handle 85, an electric motor 43, a gearbox 33, and plural batteries 47. A controller for rhw device, shown in Figure 14, includes capacitors c1-c4 and at least one switch 93 connected to the batteries and the motor for quick activation of the motor.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lies (UK 2,248,215) in view of Adomi (USPN 6,148,944).

Lies shows a materials handling device with an elongate handle 21, a battery 20 mounted to the handle, a chassis 13 pivotally mounted to the handle and a motorized

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roller 14 on the chassis. Lies fails to show the battery pack surrounding a portion of the handle.

Adomi shows a battery pack 10 mounted around a frame shaft 2 to prevent its interference with other components and to evenly distribute the weight of the batteries.

It would have been obvious to one of ordinary skill in the art to provide the Adomi vehicle with a battery pack that extends along and partially surrounds the handle shaft, in view of the teaching Adomi, in order to distribute the battery weight and prevent its bulk form interfering with operation of the device.

5. Claims 13, 17-19, 27-32, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shieman.

Shieman teaches the use of two 12-volt batteries in series for a 24-volt motor. It fails to specify a 48 volt motor or the chemical composition of the batteries. However, it would have been a matter of obvious duplication of parts to double the battery capacity, in order to increase the potential motor torque output. It would also have been obvious to use a known battery type, including NiCad, NiNM, or Lithium, as is well known in the art, in order to provide economical battery power.

Regarding claims 27 and 36, Shieman fails to specify the use of a remote charger and a spare battery pack. However, it is old and well known to provide spare batteries that are recharged at a location remote from the device using the battery. Such arrangements are common for various devices requiring batteries, including children's toys, cell phones, automobiles. Therefore, it would have been obvious to one

of ordinary skill in the art to provide a spare battery pack and battery charger, remote from the device, in order to make available a recharged battery when required.

6. Claims 15, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lies in view of Shieman.

Lies shows a materials handling device with an elongate handle 21, a battery 20 mounted to the handle, a chassis 13 pivotally mounted to the handle and a motorized roller 14 on the chassis. Lies fails to teach a controller using capacitors to store electrical energy from, the batteries.

Shieman teaches a controller using capacitors between the batteries and the motor, to provide power thereto.

It would have been obvious to one of ordinary skill in the art to provide the Lies vehicle with capacitors in the control system to regulate power to the motor, in view of the teaching Shieman, in order to provide a ready power supply to the motor of the device.

7. Claims 6, 7, 10, 20-24, and 33-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Losego, Turner, Schmitz, Harmon, and Wirkkala each show self propelled push-handle controlled devices.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M. Boehler whose telephone number is 571-272-6641. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 12/12/05
Anne Marie M. Boehler
Primary Examiner
Art Unit 3611

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